

September 22, 2005

John Truex, Traffic Control Unit
Homestead Police Department
4 South Krome Ave.
Homestead, FL 33030

Via First Class Mail and Fax at (305) 242-3934

RE: REQUEST FOR ADVISORY OPINION
OUTSIDE EMPLOYMENT
RQO 05-95

Dear Officer Truex:

On September 22, 2005, the Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting, based on facts stated in your e-mail and in phone conversations.

You requested an opinion regarding the permissibility of pursuing outside employment as a police officer in the Homestead Police Traffic Patrol Unit. Specifically, you would like to work part-time for A-1 Redland Economy Towing Co., the company that is the sole contractor for towing services for the City of Homestead.

The applicable sections of the Conflict of Interest and Code of Ethics Ordinance are as follows:

Conflicting employment prohibited. Section 2-11.1 (j) of the Conflict of Interest and Code of Ethics Ordinance prohibits municipal employees from accepting outside employment that would impair their independence of judgment in the performance of their public duties.

Exploitation of official position. Section 2-11.1 (g) of the Code prohibits municipal employees from using their official

positions to secure special privileges or exemptions for themselves or others.

Prohibition on outside employment prohibited. Section 11.1 (k)(2) of the Ethics Code requires a municipal employee to file with the City Clerk by July 1st of each year a form indicating his/her department director's approval of outside employment and a statement indicating his/her outside employment income.

The facts as presented by you indicate that you are not likely to be in a position to violate these sections of the ordinance *except* in altercations involving your outside employer and citizens. Consequently, you are granted permission to engage in outside employment with A-1 Redland Economy Towing Co., with the following provisos:

1. As per 2-11.1 (j), in order to maintain independence of judgment in the performance of your public duties as a police officer, you should not be involved in matters involving your outside employer as they relate to citizens and the City of Homestead. In particular, unless public safety would be compromised, you should avoid mediating any disputes that might occur between citizens whose cars have been towed by A-1 Redland. This condition should be agreed upon by your supervisor before approval for outside employment is granted. Additionally, you should not attempt to influence others in the city who may have responsibilities for reviewing or administering matters involving your outside employer.
2. As has been detailed in previous Ethics opinions, you must also abide by the following:
 - no use of city resources or time in furtherance of your outside employment
 - no disclosure of confidential information acquired in your official capacity in the city (§ 2-11.1 (h))
 - no use of your official position to secure special benefits or privileges for your outside employer (§ 2-11.1 (g))
 - no representations or appearances before any city board or agency on behalf of your outside employer with regard to matters connected to your outside employment.
3. Additionally, as stated in Section (k)(2) of the Ethics Code, you must—

- submit a “Request for Outside Employment” statement annually to the Homestead City Clerk indicating your supervisor’s approval of your outside employment
- file an “Outside Employment [Income] Statement” with the Homestead City Clerk by July 1 of each year indicating your outside employment income.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

If you wish to discuss this opinion in greater detail, please call me at (305) 579-2594 or Victoria Frigo at (305) 350-0601.

Sincerely yours,

ROBERT MEYERS
Executive Director

Copy: Captain Scott Kennedy
Homestead Police Department
4 South Krome Ave.
Homestead, FL 33030